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UNITED STATES OF AMERICA,	)	
Complainant,	)	8 U.S.C. § 1324a Proceeding
	)	
v.	)	OCAHO Case No. 97A00032
	)	
MANGIA BENE, INC., D/B/A	)	Judge Robert L. Barton, Jr.
MANGIA BENE PASTIZZERIA,	)	
Respondent.	)	
	)	

On November 26, 1996, a Complaint Regarding Unlawful Employment was filed by the Complainant against Respondent, pursuant to section 274A of the Immigration and Nationality Act (INA or the Act), as codified at 8 U.S.C. § 1324a. Attached to the Complaint, and incorporated therein by reference, was a Notice of Intent to Fine, which previously had been personally served upon Respondent on December 16, 1994. See Compl. Ex. A.

The Complaint alleged in Count I that Respondent hired one listed individual after November 6, 1986 and before March 9, 1994, for employment in the United States and failed to present for inspection an Employment Eligibility Verification Form (I-9 form) for that person. Compl. ¶¶ 1-4. Count II alleged that Respondent hired two listed people after November 6, 1986, for employment in the United States and failed to ensure that those people properly completed section one of their respective I-9 forms. Id. ¶¶ 5-7. Count III alleged that Respondent hired thirty-seven named individuals after November 6, 1986, for employment in the United States and failed to timely prepare I-9 forms for those individuals. Id. ¶¶ 8-10. In the alternative, Count III alleged that Respondent failed to properly complete section two of the I-9 forms for the thirty-seven listed individuals. Id. ¶ 11. On January 10, 1997, Respondent filed its Answer to the Complaint, admitting

that it had hired all the listed individuals during the specified time frames, see Answer ¶¶ 1, 2, 5, 6, 8, 9, but denying the alleged acts that would constitute violations of the INA, see id. ¶¶ 4, 7,<sup>1</sup> 10, 11.

On March 7, 1997, Complainant filed an amended Complaint, requesting fines at the minimum amount allowed by the INA. Also on March 7, Respondent filed an amended Answer to the Complaint and admitted all of the allegations, including the amount of the civil money penalty requested. As neither party has objected to the other party's proposed amendments, I accept both parties' amended pleadings.

On March 7, 1997, Complainant filed a Motion for Summary Decision pursuant to 28 C.F.R. section 68.38. Respondent has not objected to Complainant's Motion. The Rules of Practice and Procedure that govern this proceeding permit the Administrative Law Judge to "enter a summary decision for either party if the pleadings, affidavits, material obtained by discovery or otherwise, or matters officially noticed show that there is no genuine issue as to any material fact and that a party is entitled to summary decision." 28 C.F.R. § 68.38(c) (1996).

Upon review and full consideration of all the pleadings and motions filed by the parties with this Court, I find that there is no genuine issue of fact or law remaining for a hearing and that Complainant is entitled to summary decision. On the basis of Respondent's admissions in the amended Answer to the amended Complaint, I find and conclude that Respondent has violated section 274A(a)(1)(B) of the Act. As Respondent does not contest the amount of the civil money penalty, the relief sought in the Complaint, as amended, is hereby granted.

IT IS HEREBY ORDERED that Respondent pay a civil money penalty in the total sum of Four Thousand Dollars (\$4,000.00).

This decision and order is the final order of the Judge in accordance with the OCAHO Rules of Practice and Procedure, 28 C.F.R. § 68.52(c) (1996). As provided in those Rules, see id. § 68.53(a)(2), this decision and order shall become the final order of the Attorney General unless the Chief Administrative Hearing Officer vacates or modifies it within thirty (30) days from the date of this decision and order.

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**ROBERT L. BARTON, JR.**  
**ADMINISTRATIVE LAW JUDGE**

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<sup>1</sup> The Answer omits a denial of paragraph seven of the Complaint, which alleges that Respondent failed to ensure that two named employees properly completed section one of their respective I-9 forms.

## **CERTIFICATE OF SERVICE**

I hereby certify that on this 1st day of April, 1997, I have served the foregoing Order Allowing Amendment of Complaint and Answer and Granting Complainant's Motion for Summary Decision on the following persons at the addresses shown, by first class mail, unless otherwise noted:

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